IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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THURSADAY, THE TENTH DAY OF AUGUST

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WRIT PETITION No. 17767 OF 2005

Between:

G.Sunkulamma & Anr. … Petitioners

Versus

The District Collector,

Rangareddy district & Ors. … Respondents

Counsel for the Petitioners : Mr.G.RAVI MOHAN

Counsel for the Respondents 1 to 3: GP FOR REVENUE

Counsel for the Respondents 4 to 6: NONE APPEARED

O R D E R:

This writ petition is filed questioning the action of the respondents in not demarcating the plot no.5 in survey nos. 34 to 36 situate at Kothapet village of Uppal Revenue Mandal, LB Nagar Municipality, Ranga Reddy district, as per the applications dated 19-6-2003 and 11-7-2003 respectively made by the petitioners seeking demarcation of the said plot no.5, as illegal, arbitrary and unjust and consequently direct the third respondent to demarcate the same as per the above applications made by the petitioners.

The case of the petitioners is that they purchased Plot No.5 in survey nos. 34 to 36 situate at Kothapet village, Uppal Revenue Mandal, LB Nagar Municipality, Rangareddy district in the name of the first petitioner, who is the wife of second petitioner, by virtue of a registered sale deed dated 19-5-1998 with document nos. 2288 of 1998 registered at the Office of Sub-Registrar, Uppal. Since 1998, the petitioners are in possession and enjoyment of the aforesaid plot of land and paying property tax from time to time till date.

The petitioners submit that they made an application to the Municipal Commissioner, LB Nagar Municipality seeking grant of permission for construction of building. Accordingly, the Municipal Commissioner, LB Nagar Municipality, issued Proceedings dated 21-6-2002 granting permission for construction of residential house. They paid fees to the Municipality for initiating construction activities. Thereafter, the petitioners started construction and completed construction work upto basement level and erected pillars.

While things stood thus, at the time of laying the slab, respondents 4 to 6 have filed OS.No.697 of 2002 on the file of the Court of Second Additional Senior Civil Judge seeking declaration of title and recovery of possession against the petitioners. Thereupon the petitioners filed their counter and the court below heard the application filed by the plaintiffs under Order-39, Rule 1 and 2 read with Section 151 of CPC and allowed I.A.No.1155 of 2002 in OS.No.697 of 2002 by an order dated 9-9-2002 granting temporary injunction, restraining the respondent therein and his men from making any type of constructions in the suit land till the disposal of the suit. However, respondent is at liberty to ask for permission to make constructions in the suit plot after the survey basing upon the survey report.

Now the grievance of the petitioners is that respondents 4 to 6 have filed the said suit stating that they are the owners and possessors of the land in an extent of Acs:2-14 guntas in survey no.39 situate at Kothapet and further stated that the petitioners have encroached their land in an extent of 155 sq.yards and the respondents 4 to 6 also stated that the petitioners approached the Collector and Survey and Land Records Department to demarcate survey no.39. On the said application notices

were issued to the petitioner and accordingly 31-7-2002 was fixed for demarcation but the survey could not be conducted. The main dispute before this court and civil court is with regard to demarcation of boundaries in respect of the plot, which has to be clarified by the third respondent. Prior to the filing of suit, demarcation work has not been done. Consequent to the orders passed by the civil court, the petitioners made representations dated 19-6-2003 and 11-7-2003 to the respondents seeking demarcation. Due to the dispute neither the petitioners are being permitted to construction nor demarcation is done by the fourth respondent but till date no action has been initiated. In view of the above, the action of the third respondent is illegal, arbitrary and just.

Considering the facts and circumstances of the case and OS.No.697 of 2002 filed by the respondents 4 to 6 seeking declaration of title and recovery of possession against the second petitioner is pending adjudication before the Court of Second Additional Senior Civil Judge, Rangareddy district at LB Nagar, Hyderabad and also taking into consideration the observations made by the II-Additional Senior Civil Judge while passing the order dated 9-9-2002 in allowing the IA.No.1155 of 2002 in OS.No.697 of 2002, I deem it appropriate to dispose of the writ petition at the admission stage directing the second and third respondents to consider and dispose of the representations dated 19-6-2003 and 11-7-2003 respectively within four weeks from the date of receipt of a copy of this order. Without prejudice to the rights of the petitioners as well as respondents 4 to 6, the third respondent is directed to issue notice to the petitioners as well as respondents 4 to 6 with regard to the date of demarcation of plot no.5 in survey nos. 34 to 36 situate at Kothapet village, Uppal

Mandal, LB Nagar Municipality, Ranga Reddy district, immediately after passing the order on the representation made by the petitioners after affording reasonable opportunity of hearing the petitioners as well as respondents 4 to 6. However, the third respondent is directed to complete the above exercise of demarcation in the presence of the first and second respondent respectively.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

AUGUST 11th, 2005. ----------

l s L. ELIPE DHARMA RAO , J.